

2006-000014

FREEDOM OF INFORMATION ACT REQUEST
HQ-RIN-00482-06

REQUESTER: Marc Edwards

Request Date: December 19, 2005

COMPANY: Virginia Tech

Received Date: December 20, 2005

FEE Category: Other

Subject: Lead Levels in the DC WASA System from 1997 - 2003

Due Date: 1/20/2006

ASSIGNMENTS:

OW

SPECIAL INSTRUCTIONS:

IF COSTS ARE EXPECTED TO
EXCEED \$25.00, CONTACT
REQUESTER FOR PAYMENT
COMMITMENT BEFORE
PROCESSING REQUEST.

REC'D BY / DATE

FIS INITIALS: CFC



Internet Daemon Owner
<idaemon@mountain.e
pa.gov>

12/19/05 05:23 PM

To: FOIA HQ@EPA
cc:
Subject: (352172311) On-line FOIA Request

a_NAME :Marc Edwards
b_COMPANY :Virginia Tech
c_TYPE :Scientific/Educational
d_ADDRESS :407 Durham Hall
e_CITY :Blacksburg
f_STATE :VA
g_ZIP :24060

h_EMAIL :edwardsm@vt.edu

i_PHONE :540 231-7236

j_FAX :540 231-7916

k_SITE_FACILITY_ENTITY :I would like copies of documents and spreadsheets illustrating lead levels in the DC WASA system from 1997 until 2003. Specifically, documents that might reconcile EPA LCR sampling requirements with the data that WASA provided/reported to EPA. For instance, it has been reported that some samples were invalidated improperly in 2000, and it is likely EPA recalculated what the 90%ile would have been. Likewise, there were also irregularities in 1999 and earlier time periods that EPA may have examined in detail.

m_SPECIFIC_INFORMATION_NEEDED_:

n_FEE :\$25-\$50

o_AMOUNT :insert value

WARNING NOTICE

This electronic mail originated from a federal government computer system of the United States Environmental Protection Agency (EPA). Unauthorized access or use of this EPA system may subject violators to criminal, civil and/or administrative action. For official purposes, law enforcement and other authorized personnel may monitor, record, read, copy and disclose all information which an EPA system processes. Any person's access or use, authorized and unauthorized, of this EPA system to send electronic mail constitutes consent to these terms.

This information is for tracking purposes only.

Submitting script: /cgi-bin/mail.cgi

Submitting host: 128.173.94.171 (128.173.94.171)

Browser: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; SV1; InfoPath.1)

Referred: http://www.epa.gov/foia/requestform.html

TSSMS: epafoial

Mail to File: HQ

OW
HQ-FIN-0048206
Due Date: 1-20-06

Fee Category - Other



Stephanie
Flaharty/DC/USEPA/US

05/01/2006 04:10 PM

To Marc Edwards <edwardsm@vt.edu>

cc Diane Jones/DC/USEPA/US@EPA

bcc

Subject FOIA Request #00482-06

Marc Edwards
Virginia Tech
407 Durham Hall
Blacksburg, VA 24060

Re: Freedom of Information Act Request HQ-RIN-00482-06

Dear Ms. Edwards:

This is in response to your Freedom of Information Act request received December 20, 2005. You specifically asked for "copies of documents and spreadsheets illustrating lead levels in the DC WASA system from 1997 until 2003....documents that might reconcile EPA LCR sampling requirements with the data that WASA provided/reported to EPA." I wish to advise you that EPA Headquarters has no records responsive to your request. EPA Headquarters requested that this FOIA be re-assigned to EPA Region 3. This is not a denial.

Under the FOIA, you have the right to appeal my no records determination to U.S. EPA, Office of Environmental Information, Records, FOIA and Privacy Branch (2822T), 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

The appeal must be made in writing, and it must be received at this address no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30-day limit. The appeal may include as much or as little related information as you wish, as long as it clearly identifies the determination being appealed (including the assigned FOIA request number - HQ-RIN-00482-06). For quickest possible handling, the appeal letter and its envelope should be marked Freedom of Information Act Appeal.

Sincerely,

Stephanie Flaharty
Senior Regulations Manager
Office of Ground Water and Drinking Water
202.564.5072



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

February 16, 2006

Marc Edwards, PhD.
407 Durham Hall
Virginia Polytechnic Institute and State University
Blacksburg, VA 24061

Re: Freedom of Information Requests 03-RIN-0391-06 and 03-RIN-0421-06

Dear Dr. Edwards:

I am writing in regard to your Freedom of Information Act (FOIA) requests referenced above, dated December 16, 2005 and December 19, 2005, respectively.

Pursuant to Title 40 CFR, Part 2, § 2.07j(2), now that we have determined that the combined cost to process your request will be more than \$250.00, and since you have a history of prompt payment with us, it will be necessary for you to commit in writing your intention to pay the estimated costs for the responses to these two FOIA requests. Upon receipt of your commitment, we will complete the processing of your requests and forward the requested documents to you with invoices.

Below is the estimated cost for processing your request. This estimate includes search and review time as well as copying fees. The actual amount to process your request may be more than the estimated amount. If you prepay the estimated amount and the actual cost to process your request is more than estimated, you will be billed for the difference. If you prepay the estimated amount and the actual cost to process your request is less than estimated, we will refund the difference to you.

FOIA Request # 3-RIN-0421-06

This request entailed documents and spreadsheets illustrating lead levels in the D.C. WASA system from 1997 until 2003, specifically documents that might reconcile EPA LCR sampling requirements with the data that D.C. WASA reported to EPA. The total amount of the cost estimate to reply to this FOIA is \$214.90 and includes the fee of \$176.50 (5 hours search and review time by professional personnel at \$28/hour; 1 hour clerical support fee at \$16/hour; and 0.5 hrs managerial time for search and review at \$41/hr) and copying costs of \$38.40 for 256 pages @ \$0.15 per page.

FOIA Request # 3-RIN-0391-06

This request is for a copy of a D.C. WASA lead report and cover letter from August 1999, lead results from D.C. WASA that were not included in the August 1999 lead report, and correspondence between EPA and D.C. WASA regarding the missing lead results. The total estimated amount of \$291.60 to respond to this request includes the fee of \$232.50 search,



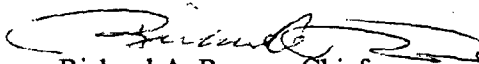
review and clerical support fee (5 hours search and review time by professional personnel at \$28/hour; 1 hour clerical support fee at \$16/hour; and 0.5 hrs managerial time for search and review at \$41/hr) and copying costs of \$59.10 for 494 pages @ \$0.15 per page.

Total estimate for responses to both requests: \$506.50

If you have any questions, please contact me at 215-814-5711. Please notify me or Richard Van Holt in writing of your intent to commit to paying the costs to reply to this FOIA request. If we have not heard from you by February 28, 2006, we will assume that you are no longer interested in pursuing your request and will consider your request closed. If at a later date you are still interested in pursuing your request you may resubmit a Freedom of Information Request to the Freedom of Information Officer, Richard Van Holt at the address, below, or through the United States Environmental Protection Agency, Region III's FOIA Internet site you have used in the past.

Richard Van Holt, FOIA Officer
Office of Congressional and Intergovernmental Affairs (3CG00)
U.S. Environmental Protection Agency Region III
1650 Arch Street
Philadelphia, PA 19103

Sincerely,



Richard A. Rogers, Chief
Drinking Water Branch

cc: R. Van Holt



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

March 10, 2006

Marc Edwards, PhD.
407 Durham Hall
Virginia Polytechnic Institute and State University
Blacksburg, VA 24061

Dear Dr. Edwards:

This is in response to your Freedom of Information Act request received on December 16, 2005.

Request Identification No. : 03-RIN-0931-06

Cost: \$115.80

- 391
- (X) Positive Determination (Material Enclosed).
 - () Requested information is not known to exist or is not in EPA's possession. (Remarks Attached).
 - () Your request of [date received] modified per discussion with [discussed with] (Remarks Attached)
 - () Fee Waiver under \$14.00
 - () Processing Request: Partial information included. If there is remaining information, it will be provided after next review by requester.
 - () Processing Request:
 - (X) Please see attached bill. Make check payable to U.S. Environmental Protection Agency. Include the Request Identification Number (RIN) on check and mail to EPA-Region III, P.O. Box #360515, Pittsburgh, PA 15251-6515.

Enclosed are documents in response to your Freedom of Information Act (FOIA) request: EPA Region III No. 3-RIN-00391-06. In your February 23, 2006 E-mail to me, you agreed to pay the estimated cost of producing this response. You did not state that you agree to pay the costs for the FOIA request 3-RIN-00421-06 (No. 3-RIN-00421-06 is the same as EPA Headquarters No. HQ-RIN-00482-06). Therefore, I will consider your that request closed.

You will note that in some of the documents enclosed, text has been redacted. The redacted items are names and address numbers of residents of the District of Columbia. This information has been redacted to comply with Privacy Act requirements.

With regard to FOIA No. 3-RIN-00391-06, the response includes a copy of the original lead and copper monitoring report which the District of Columbia Water and Sewer Authority (WASA) submitted to EPA for 1999. Also included is a copy of a report which WASA submitted to EPA in June 2004 in response to EPA's questions about the 1999 and other reports. The WASA report provides a detailed description of what WASA believes caused the problems that EPA found regarding the original reports.

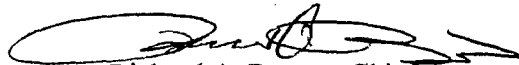
Customer Service Hotline: 1-800-438-2474

The response would also include copies of the administrative orders that EPA issued to WASA in June 2004 and January 2005 to address violations of the Lead and Copper Rule (LCR) which were found after a thorough review of WASA's LCR compliance monitoring from 1998 through 2003. Since these are available for download from our web site, I have not included them in this response nor have included them in the final cost of this response. These documents can be downloaded from the following site:

www.epa.gov/dclead/communications.htm. Also included is a copy of the Annual Compliance Report for Public Water Systems in the District of Columbia for Calendar Year 2003. This report also describes the LCR violations and summarizes the violations in Appendix A of the report.

Please contact me, or call George Rizzo at 215-814-5781 if you have any questions regarding the enclosed documents.

Sincerely,



Richard A. Rogers, Chief
Drinking Water Branch

Enclosures

cc: Laura Shields (3PM30)

Richard Van Holt, FOIA Coordinator (3CG10)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

May 30, 2006

Mr. Marc Edwards
407 Durham Hall
Virginia Polytechnic Institute and State University
Blacksburg, VA 24061

Re: Freedom of Information Act Request: 03-RIN-00421-06/HQ-RIN-00482-06

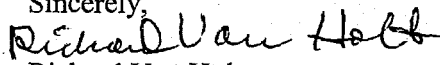
Dear Mr. Edwards:

I am writing in regard to your Freedom of Information Act (FOIA) request directed to EPA Headquarters, referenced above, dated December 19, 2005, for records related to lead levels in the DC WASA System from 1997-2003. EPA Headquarters subsequently forwarded your request to EPA Region III for processing in accordance with 40 CFR § 2.103(d)(2) and it was received in this office on December 27, 2005. I am attempting to determine whether you are still interested in receiving responsive records from EPA Region III regarding this request.

In a letter dated February 16, 2006, Rick Rogers provided a cost estimate for processing FOIA requests 03-RIN-00391-06 and 03-RIN-00421-06 in the amount of \$291.60 and \$214.90, respectively. In that letter you were informed that if we did not hear from you by February 28, 2006, we would assume that you were no longer interested in pursuing your requests and that we would consider your requests closed. You responded by e-mail on February 23, 2006, that you agreed to pay \$291.60 for FOIA request 03-RIN-00391-06. You made no mention of your intentions regarding the estimated fees concerning FOIA request 03-RIN-00421-06.

When Rick Rogers sent you the responsive documents for FOIA request 03-RIN-00391-06 on March 10, 2006, he wrote in his cover letter that, since you did not agree to pay the costs for FOIA request 03-RIN-00421-06 in your February 23, 2006 e-mail message to him, that he was considering that request closed. Since that time, I have been informed that you were still attempting to get the documents from EPA Headquarters, despite the fact that all the responsive documents are located in Region III.

Please let me know if you want Region III to process this request. If I do not hear from you by June 9, 2006, I will assume that you no longer want the documents at issue and I will consider your request closed. If at a later date you are still interested in pursuing your request, you may re-submit your request to me at the above address.

Sincerely,

Richard Van Holt
FOIA Officer



Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.

Customer Service Hotline: 1-800-438-2474



The Charles Edward Via, Jr. Department of
Civil and Environmental Engineering

418 New Engineering Building, Mail Code 0246
Blacksburg, Virginia 24061
Phone: (540) 231-6131 Fax: (540) 231-7916

To: U.S. EPA
Office of Environmental Information
Records, FOIA and Privacy Branch (2822T)
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Fax: 202 566 2147

Re: Appeal of Determination on HQ-RN-00482-06

Appeal

HQ-APP-00085-06
Re: HQ-RN-00482-06)

DOC-Action

OW 5/20/2006 coordinate w/ OGC

EPA Headquarters claims to have no records responsive to my request above. On the basis of other information I have, I believe this claim is false, and I even directed them to files on the computer of a specific EPA staff person at HQ's. Moreover, EPA HQ refuses to give me a simple answer "Yes or No" regarding the existence of these records on the computer of that staff person to support their assertion. Our e-mail exchange from 5/1/2006 to 5/18/2006 is attached for your consideration.

Sincerely,

Due Date: 6/20/06

Marc Edwards
Charles Lunsford Professor of Civil Engineering

Date: Mon, 01 May 2006 16:10:58 -0400
From: Flaharty.Stephanie@epamail.epa.gov
Subject: FOIA Request #00482-06
To: Marc Edwards <edwardsm@vt.edu>
Cc: Jones.Diane@epamail.epa.gov

Marc Edwards
Virginia Tech
407 Durham Hall
Blacksburg, VA 24060

Re: Freedom of Information Act Request HQ-RIN-00482-06

Dear Ms. Edwards:

This is in response to your Freedom of Information Act request received December 20, 2005. You specifically asked for "copies of documents and spreadsheets illustrating lead levels in the DC WASA system from 1997 until 2003....documents that might reconcile EPA LCR sampling requirements with the data that WASA provided/reported to EPA." I wish to advise you that EPA Headquarters has no records responsive to your request. EPA Headquarters requested that this FOIA be re-assigned to EPA Region 3. This is not a denial.

Under the FOIA, you have the right to appeal my no records determination to U.S. EPA, Office of Environmental Information, Records, FOIA and Privacy Branch (2822T), 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

The appeal must be made in writing, and it must be received at this address no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30-day limit. The appeal may include as much or as little related information as you wish, as long as it clearly identifies the determination being appealed (including the assigned FOIA request number - HQ-RIN-00482-06). For quickest possible handling, the appeal letter and its envelope should be marked Freedom of Information Act Appeal.

Sincerely,

Stephanie Flaharty
Senior Regulations Manager
Office of Ground Water and Drinking Water
202.564.5072

Date: Mon, 01 May 2006 17:06:47 -0400
To: Flaharty.Stephanie@epamail.epa.gov
From: Marc Edwards <edwardsm@vt.edu>
Subject: Re: FOIA Request #00482-06
Cc: Jones.Diane@epamail.epa.gov

I am quite certain that Jeff Kempic has had these spreadsheets.

Marc

Date: Tue, 02 May 2006 08:01:28 -0400
From: Flaharty.Stephanie@epamail.epa.gov
Subject: Re: FOIA Request #00482-06
To: Marc Edwards <edwardsm@vt.edu>

Marc,

I checked with Jeff Kempic and the spreadsheets you refer to below originated in Region 3. As a result, I had requested that the FOIA be transferred to Region 3 on December 22, 2006. Our FOIA officer requested that we close-out the FOIA with the response that I sent you yesterday.

Steph

Date: Tue, 02 May 2006 09:04:45 -0400
To: Flaharty.Stephanie@epamail.epa.gov
From: Marc Edwards <edwardsm@vt.edu>
Subject: Re: FOIA Request #00482-06
Cc: Powers.Mary@epamail.epa.gov

Steph,

I understand your FOIA's officer's desire to close out the request, but I do not see how the office of origin matters.

Your e-mail below says that HQ does not have records responsive to my request. This is not accurate. In fact, Jeff has either had it on his computer, and in all likelihood, he still has it.

Contrary to the law, Region III refuses to provide electronic copies of documents and data when I request it. Now I do apologize for bothering HQ with requests that could and should be handled by Region III, but as I told you before, they have not been responsive, they had a meeting discussing ways to "get around the FOIA act," and they have even with-held/deleted data I requested.

So I again request an electronic copy of the spreadsheet.

Marc

Date: Thu, 04 May 2006 14:09:29 -0400
From: Flaharty.Stephanie@epamail.epa.gov
Subject: Re: FOIA Request #00482-06
To: Marc Edwards <edwardsm@vt.edu>
Cc: Donahue.Lisa@epamail.epa.gov, Vanholt.Richard@epamail.epa.gov,
Floyd-Coleman.Cynthia@epamail.epa.gov, Jones.Diane@epamail.epa.gov,
Powers.Mary@epamail.epa.gov

Marc,

I understand that this FOIA request was re-assigned to Region 3 and that the request was closed at your request. I also understand that the Region 3 spreadsheet document(s) that you have requested may have redactable (confidential) information, which should be reviewed by Region 3 staff along with other documents at Region 3, which could be responsive to your request. Headquarters stands by our May 1, 2006 response, which you may appeal; however, you can request Region 3 to re-open FOIA (# HQ 482/03 RIN 421).

Regards,
Steph Flaharty

To Stephanie
05/05/2006 08:48 AM Flaharty/DC/USEPA/US@EPA
cc
Lisa Donahue/R3/USEPA/US@EPA,
Cynthia
Floyd-Coleman/DC/USEPA/US@EPA,
Diane Jones/DC/USEPA/US@EPA, Mary
Powers/DC/USEPA/US@EPA, Richard
Vanholt/R3/USEPA/US
Subject
RE: FOIA Request #00482-06

Steph,

Headquarters is standing by this May 1 response:

"I wish to advise you that EPA Headquarters has no records responsive to your request."

even though I have told you, and you have confirmed, that Jeff Kempic actually has the spreadsheet?

You have the spreadsheet, but you do not actually have it, because it is

Region III's?

I am just trying to understand the logic.

Marc

Date: Fri, 05 May 2006 09:02:18 -0400
From: Flaharty.Stephanie@epamail.epa.gov
Subject: RE: FOIA Request #00482-06
To: edwardsm <edwardsm@vt.edu>

Marc,

We have to defer to Region 3 for this FOIA for the following reasons:

1. The Region 3 spreadsheet document(s) that you have requested may have redactable (confidential) information, which should be reviewed by Region 3 staff along with other documents at Region 3, which could be responsive to your request.
2. This FOIA was re-assigned (transferred) to Region 3 on December 22, 2005.

Steph

edwardsm
<edwardsm@vt.edu>
> To
Stephanie
05/05/2006 11:45 AM Flaharty/DC/USEPA/US@EPA
cc
Subject
RE: FOIA Request #00482-06

But the spreadsheet does exist on Jeff's computer?
Please confirm.

Marc

Date: Fri, 05 May 2006 11:54:33 -0400
From: Flaharty.Stephanie@epamail.epa.gov
Subject: RE: FOIA Request #00482-06
To: edwardsm <edwardsm@vt.edu>

It is my understanding that the spreadsheet was sent back to Region 3 for review.

Date: Fri, 05 May 2006 17:36:59 -0400
To: Flaharty.Stephanie@epamail.epa.gov
From: Marc Edwards <edwardsm@vt.edu>
Subject: RE: FOIA Request #00482-06

You are not answering my question.

Does the spreadsheet exist on Jeff's computer, yes or no?
If it does not currently exist on his computer, did it exist on his computer when I originally made my request?

Thanks in advance for your response.
Marc

Date: Fri, 05 May 2006 17:56:42 -0400
From: Flaharty.Stephanie@epamail.epa.gov
Subject: RE: FOIA Request #00482-06
To: Marc Edwards <edwardsm@vt.edu>

Marc,

I'll have to get back to you next week, I've been to swamped to follow-up this afternoon.

Steph

Date: Fri, 05 May 2006 18:09:57 -0400
To: Flaharty.Stephanie@epamail.epa.gov
From: Marc Edwards <edwardsm@vt.edu>
Subject: RE: FOIA Request #00482-06

Thanks.
Marc

Marc Edwards
<edwardsm@vt.edu>
>

To

Stephanie
05/10/2006 11:32 AM Flaharty/DC/USEPA/US@EPA
cc

Subject

Jeff's computer

Did you confirm that the file is, or was, on Jeff's computer?

I need the correct status of the file if I am to appeal.

Mar

Date: Wed, 10 May 2006 11:44:58 -0400
From: Flaharty.Stephania@epamail.epa.gov
Subject: Re: Jeff's computer
To: Marc Edwards <edwardsm@vt.edu>

Marc,

I've been out of the office, I'll try to follow-up for you this week.

s

Date: Mon, 15 May 2006 13:54:05 -0400
To: Flaharty.Stephania@epamail.epa.gov
From: Marc Edwards <edwardsm@vt.edu>
Subject: File on Jeff's computer.

Any luck on determining whether the file I requested is still, or was, on Jeff's computer?
Marc

Date: Thu, 18 May 2006 08:14:59 -0400
To: Flaharty.Stephania@epamail.epa.gov
From: Marc Edwards <edwardsm@vt.edu>
Subject: RE: FOIA Request #00482-06

What did you discover?
It has been nearly 2 weeks.

Marc

Date: Thu, 18 May 2006 08:41:39 -0400
From: Flaharty.Stephania@epamail.epa.gov
Subject: RE: FOIA Request #00482-06
To: Marc Edwards <edwardsm@vt.edu>

Marc,

I'm waiting on direction as to how to proceed with your request since
FOIA HQ-RIN-00482.06 is closed.

Steph

5/18/2006

To: Flaharty.Stephania@epamail.epa.gov

From: Marc Edwards <edwardsm@vt.edu>

Subject: RE: FOIA Request #00482-06

I don't understand how that impacts whether Jeff has the spreadsheet on his computer or not.